

REMARKS

In the Office Action of September 22, 2005 the Examiner acknowledges the Applicant's election of the Examiner's Group I (original Claims 1-16, 27-31, and 43) drawn to a ballistics calculator system, classified in class 89, subclass 41.17.

The Examiner also acknowledges the Applicant's election of the species directed to the target acquisition device being used, and the type of reticle being used, in the Response to Office Action filed June 21, 2005. In an Amendment accompanying the Response to Office Action filed June 21, 2005, the Applicants have cancelled Claims 1-44, and added Claims 45-83, all of which are directed to the target acquisition device being used, and the type of reticle being used, of Claim 45.

In the Office Action of September 22, 2005 the Examiner states:

"Claims 55-72 and 83 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions (sic), there being no allowable generic or linking claim." (Office Action of September 22, 2005, page 2.)

The Examiner has improperly withdrawn Claims 55-72 and 83. The Applicants point out to the Examiner that pending Claims 55-72 and 83 are drawn to the subject matter of the Examiner's Group I, a ballistics calculator system, elected by the Applicant in accord with the Examiner's requirement for restriction. (Office Action of May 17, 2005, page 2.) While the subject matter of Claims 55-72 and 83 may relate to non-elected species, a species election does not result in withdrawal of the claims. To the contrary, if the generic claim is found allowable, the unelected species claim are examined. Indeed, the Examiner has yet to perform an examination to determine the allowability of any claim, whether the claim in question is "generic", "linking" or otherwise. Claim 45 is unquestionably generic to the subject matter of Claims 55-72 and 83, which are dependent thereon. In the Office Action of September 22, 2005 the Examiner has apparently confused the Applicant's response to the Examiner's requirement for restriction (*i.e.*, the Claims of Examiner's Group I), with the Applicant's

response to the Examiner's request for species elections (*i.e.*, the target application device, and type of reticle being used, of Claim 45). For these reason, the Applicants respectfully request that the Examiner's impermissible withdrawal be itself withdrawn.

In the Office Action of September 22, 2005 the Examiner states:

“Applicant is required under 35 U.S.C. 121 to elect a single disclosed species (from each the **location of intersection** and the **information displayed**) for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.” (Emphasis original.) (Office Action of September 22, 2005, page 2.)

Applicants elect, without traverse, to initially prosecute claims drawn to:

a. **Location of the intersection of primary vertical and horizontal cross-hairs at the optical center** of the reticle.

and

d. **The information displayed of an image of the reticle on the display screen.**

The Applicants note that these are also species elections, and that once the generic claim (Claim 45) is found allowable, the remaining species will be examined.

CONCLUSION

Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicants encourage the Examiner to call the undersigned collect at (608) 218-6900.

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